

January 14, 2015

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Via U.S. Mail and E-Mail

Bill Lynch, Chair
Washington State Energy Facility Site Evaluation Council
P.O. Box 43172
Olympia, Washington 98504-3172

RE: *Tesoro Savage Vancouver Energy Distribution Terminal (Application No. 2013-01)*

Dear Chairman Lynch:

It is the position of Columbia Waterfront LLC that SEPA requires that the adjudication regarding the application for the Tesoro Savage Vancouver Energy Distribution Terminal not be commenced until after the completion of the draft environmental impact study ("DEIS"). EFSEC staff currently estimate that the DEIS will be completed in approximately May 2015 after the completion of additional critical analyses to fill in the gaps identified at the December EFSEC meeting. EFSEC has repeatedly stated during proceedings on this application that the adjudication would not commence until after the publication of the DEIS. However, our understanding is that during its meeting on January 20, the Council will reconsider this position and may vote to commence the adjudication prior to issuance of the DEIS.

The stated rationale for commencing the adjudication prior to issuance of the DEIS is that doing so will create efficiencies in the process. It will not. In fact, commencing adjudication now will make it extremely difficult for intervening parties to participate in the adjudication in a streamlined, fair and efficient manner. For example, without the benefit of the analyses in the DEIS on this complex application, it will be highly unlikely, if not impossible, that the parties will be able to stipulate as to operative facts, as is encouraged by WAC 463-30-250. Similarly, the value of any prehearing conference under WAC 463-30-270 held prior to the issuance of the DEIS will be very limited, as the parties' ability to simply issues, tailor discovery, and identify witnesses will be constrained without the benefit of the information in the DEIS. To avoid this problem, the plan is to apparently allow new interventions and revised issues lists after publication of the DEIS. This would duplicate exactly the same tasks set in an early commencement process, and instead of

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being more efficient, will only prolong the prehearing period and add unnecessary transaction costs.

Columbia Waterfront LLC requests that the Council continue with the planned procedure and commence the adjudication after publication of the DEIS.

Thank you for your consideration of this matter.

Sincerely,



Linda R. Larson

cc: Barry Cain, Columbia Waterfront LLC
Ann Essko, Washington Attorney General's Office
Matthew Kernutt, Washington Attorney General's Office
Jay Derr, Van Ness Feldman, LLP, Counsel for Tesoro Savage
E. Bronson Potter, City Attorney, City of Vancouver
Nathan Baker, Counsel for Friends of the Columbia Gorge
Kristen Boyles, Earthjustice